

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COMMERZBANK AG,

Plaintiff,

v.

DEUTSCHE BANK NATIONAL TRUST
COMPANY and DEUTSCHE BANK TRUST
COMPANY AMERICAS,

Defendants

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
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DATE FILED: 1/31/18

Case No. 15-cv-10031-JGK-DCF

[PROPOSED] REVISED SCHEDULING ORDER

IT IS HEREBY STIPULATED AND AGREED that the scheduling order for this case is amended as follows:

1. **Fact Discovery**: The parties agree that all contention interrogatories will be served by January 29, 2018. February 28, 2018 remains the deadline to complete all party fact discovery (including responses and objections to any contention interrogatories); except that the deadline to file any pre-motion letter or, if no letter is filed, motion concerning any party's interrogatory responses and objections is March 16, 2018. February 28, 2018 is also the deadline for the parties to serve discovery requests on non-parties. The deadline for the parties to complete non-party fact discovery is June 29, 2018; except that the deadline to complete any non-party fact discovery seeking the production of loan files will be set as part of the Phase 2 schedule (addressed below). Defendants will have no obligation to take any action to request or obtain, or to assist Plaintiff request or obtain, any documents, testimony or other information from any non-party, including, without limitation, any loan files in the possession, custody or control of a non-party.

2. **Two-Phased Schedule after Close of Fact Discovery:** After February 28, 2018, the case shall proceed in two stages:

- a. **Phase 1:** In Phase 1, the parties will complete non-party fact discovery (except for any non-party fact discovery seeking the production of loan files, which will be completed in Phase 2), take expert discovery concerning any issue other than loan-level re-underwriting and damages and, upon completion of such discovery, have an opportunity to file dispositive motions.
- b. **Phase 2:** In Phase 2 – following resolution of any Phase 1 dispositive motions – the parties will complete any non-party fact discovery seeking the production of loan files, take expert discovery concerning loan-level re-underwriting, damages and any remaining issues, and, upon completion of such non-party fact discovery and expert discovery, have an opportunity to file dispositive motions concerning any argument (i) not raised in a Phase 1 dispositive motion and ruled upon by the Court or (ii) relating to any fact or expert discovery completed in Phase 2. After the Court rules on any Phase 2 dispositive motions, this case will proceed to trial.

3. **Phase 1 Expert Discovery:**

- a. Phase 1 affirmative expert reports, if any, due on April 27, 2018.
- b. Phase 1 rebuttal expert reports, if any, due on August 3, 2018.
- c. Phase 1 expert discovery cut-off is October 5, 2018.

4. **Phase 1 Dispositive Motions:** The deadline to file dispositive motions following the completion of Phase 1 expert discovery is November 2, 2018.

5. **Phase 2 Expert Discovery, Phase 2 Dispositive Motions and Trial** The parties will propose a schedule for the completion of any non-party fact discovery seeking the production of loan files, Phase 2 expert discovery, Phase 2 dispositive motions and trial promptly after

resolution of any Phase I dispositive motions or, if no such motions are filed, on or before November 9, 2018.

Dated: January 24, 2018

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SO ORDERED

Dated: January 31, 2018


Hon. Debra L. Freeman
United States Magistrate Judge